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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/418,647	10/15/1999	TREVOR K. BYLSMA	1400.4100202	9158

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EXAMINER

FOX, JAMAL A

ART UNIT	PAPER NUMBER
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2664

DATE MAILED: 03/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/418,647

Applicant(s)

BYLSMA ET AL.

Examiner

Jamal A Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 October 1999.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "Figure 2 illustrates" is missing from page 5 line 5. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-21 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of copending Application No. 09418646 in view of Jorgensen. Although the conflicting claims are not identical, they are not patentably distinct from each other because a method for management of a network disclosed in claims 1-14 of Application No.

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09418647 comprises the same functions that are included in claims 1-16 of Application No. 09418646. Referring to claims 1 - 15 of Application No. 09418647, A method for management of a network, comprising: receiving a new set of indicators corresponding to a node in the network, wherein the new set of indicators includes functional characteristics of the node, wherein each indicator of the new set of indicators corresponds to a particular functional characteristic; storing the new set of indicators in a database, wherein the database includes sets of indicators corresponding to at least one additional node in the network; and utilizing the database including the new set of indicators to perform network management functions. Referring to claims 1 – 16 of Application No. 09418646. A method for management of a network that supports frame relay services, comprising: receiving a new set of indicators corresponding to a selected component in the network, wherein the new set of indicators includes frame relay functional characteristics of the selected network component, wherein each indicator of at least a portion of the new set of indicators corresponds to a particular frame relay functional characteristic; storing the new set of indicators in a database, wherein the database includes sets of indicators corresponding to at least one additional network component in the network; and utilizing the database including the new set of indicators to perform network management functions that include frame relay services. Claims 1 – 14 of Application No. 09418647 fails to teach of a method for management of a network that supports frame relay services. Jorgensen discloses network management in column 45 lines 40-47 and column 78 lines 9-20. Jorgensen discloses Frame Relay Services in column 34 lines 24-50. Therefore it would have

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been obvious to one having ordinary skill in the art at the time the invention was made to have included a method for management of a network that supports frame relay services as suggested by Jorgensen, in a generic manner such that revisions to the network manager are not required each time a new node or new release of an existing node type is developed.

The network management processor disclosed in Application No. 09418647 comprises the same elements disclosed in the network management processor of Application No. 09418646. Referring to claim 15 - 21, of Application No. 09418647, A network management processor, comprising: a processing module; and memory operably coupled to the processing module, wherein the memory includes operating instructions that cause the processing module to: store a received new set of indicators in a database, wherein the new set of indicators corresponds to a node in a network, wherein the database includes indicators corresponding to at least one additional node in the network, wherein the new set of indicators includes functional characteristics of the node, wherein each indicator of the new set of indicators corresponds to a particular functional characteristic; and perform network management functions based on the database including the new set of indicators. Referring to claim 17 - 23 of Application No. 09418646, A network management processor that supports frame relay services in a communication network, comprising: a processing module; and memory operably coupled to the processing module, wherein the memory includes operating instructions that cause the processing module to: store a received new set of indicators in a database, wherein the new set of indicators corresponds to a

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selected network component in the communication network, wherein the database includes indicators corresponding to at least one additional network component in the communication network, wherein the new set of indicators includes frame relay functional characteristics of the selected network component, wherein each indicator at least a portion of the new set of indicators corresponds to a particular frame relay functional characteristic; and perform network management functions based on the database including the new set of indicators, wherein the network management functions include functions related to frame relay service. Claim 15 - 21 of Application No. 09418647 discloses the a network management processor, but not with the network management functions including functions related to frame relay services. Jorgensen discloses network management in column 45 lines 40-47 and column 78 lines 9-20. Jorgensen discloses Frame Relay Services in column 34 lines 24-50. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included a network management processor that supports frame relay services in a communication network as suggested by Jorgensen, in a generic manner such that revisions to the network manager are not required each time a new node or new release of an existing node type is developed.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U. S. Patent No. 5,027,345 to Littlewood et al. Referring to claim 1, Littlewood et al. discloses a method for management of a network (col. 13 lines 20-28), comprising: receiving a new set of indicators corresponding to a node in the network (col. 4 lines 51- col. 5 line 9), wherein the new set of indicators includes functional characteristics (Figs. 2 & 3) of the node, wherein each indicator of the new set of indicators corresponds to a particular functional characteristic (Figs. 2 & 3); storing the new set of indicators in a database (Figs. 2 & 3, reference sign 43), wherein the database includes sets of indicators corresponding to at least one additional node in the network (col. 28 lines 61- 64); and utilizing the database including the new set of indicators to perform network management functions (col. 29 lines 6-9).

Referring to claim 2, Littlewood et al. discloses the method of claim 1, wherein each set of indicators includes indicators in a predetermined arrangement, wherein position in the predetermined arrangement corresponds to representation of functional characteristic (col. 4 lines 2-34).

Referring to claim 3, Littlewood et al. discloses the method of claim 2, wherein each set of indicators further comprises a bit mapped value (col. 3 lines 42-46), wherein each bit location in the bit mapped value corresponds to representation of a functional characteristic (col. 11 lines 6-23).

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Referring to claim 4, Littlewood et al. discloses the method of claim 1, wherein each set of indicators includes indicators indicating functional support at multiple hierarchical levels within a node to which the set of indicators corresponds (Table 1 & Table 3).

Referring to claim 5, Littlewood et al. discloses the method of claim 4, wherein the multiple hierarchical levels include at least a portion of a set of levels, wherein the set of levels includes a node level, a shelf level, a card level, a port level, and a circuit level (Fig. 1).

Referring to claim 6, Littlewood et al. discloses the method of claim 1, wherein the set of indicators further includes physical characteristics of the node (col. 6 lines 35-53).

Referring to claim 7, Littlewood et al. discloses the method of claim 1, wherein performing network management functions further comprises determining routing paths in the network (col. 3 lines 30-53).

Referring to claim 8, Littlewood et al. discloses the method of claim 1, wherein performing network management functions further comprises configuring path endpoints in the network (col. 13 lines 29-42).

Referring to claim 9, Littlewood et al. discloses the method of claim 1, wherein the network is a communications network that includes one or more of Time Division Multiplexing (col. 3 lines 30-53), Frame Relay, asynchronous transfer mode, and wireless network formats.



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Referring to claim 10, Littlewood et al. discloses a method for communicating a set of characteristics of a node in a communication network, comprising: determining functional characteristics for the node (col. 4 lines 51- col. 5 line 9); generating a set of indicators corresponding to the functional characteristics (col. 4 lines 51- col. 5 line 9), wherein each indicator of the set of indicators corresponds to a particular functional characteristic (col. 4 lines 51- col. 5 line 9); and combining the set of indicator with physical characteristic information of the node to produce the set of characteristics for the node (col. 6 lines 35-53).

Referring to claim 11, Littlewood et al. discloses the method of claim 10, wherein generating the set of indicators further comprises generating a bit mapped set of indicators, wherein each bit of the bit mapped set corresponds to a functional characteristic (col. 11 lines 6-23).

Referring to claim 12, Littlewood et al. discloses the method of claim 11, wherein generating the set of indicators further comprises generating the set of indicators based on a bit map template used by a network management device in the communications network (Table 1 & Table 3).

Referring to claim 13, Littlewood et al. discloses a method for performing network management functions in a communications network that includes a plurality of nodes (Fig. 1), comprising: determining functionality of at least a portion of the plurality of nodes and component entities of the at least a portion of the plurality of nodes based on a database of bit mapped indicator sets (Table 1 & Table 3), wherein the at least a portion of the nodes in the communications network are represented by corresponding

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bit mapped indicator sets (Table 1 & Table 3), wherein each bit mapped indicator set indicates functional characteristics for a corresponding node (Table 1 & Table 3); when functionality of the plurality of nodes is not fully characterized by the database (col. 22 lines 62-66), determining functionality of a remainder portion of the plurality of nodes based on node types corresponding to nodes included in the remainder portion of the plurality of nodes (col. 4 lines 51- col. 5 line 9); and performing network management functions (col. 29 lines 6-9) based on functionality of the plurality of nodes as determined.

Referring to claim 14, Littlewood et al. discloses the method of claim 13, wherein performing network management functions further comprises determining routing paths (col. 3 lines 30-53) in the communications network.

Referring to claim 15, Littlewood et al. discloses a network management processor (Fig. 1), comprising: a processing module (Fig. 1, reference sign 7); and memory (col. 17 line 66) operable coupled to the processing module, wherein the memory includes operating instructions (col. 18 lines 5-27) that cause the processing module to: store a received new set of indicators in a database, wherein the new set of indicators corresponds to a node in a network (col. 22 lines 45-66), wherein the database includes indicators corresponding to at least one additional node in the network (col. 22 lines 45-66), wherein the new set of indicators includes functional characteristics of the node (col. 4 lines 51- col. 5 line 9), wherein each indicator of the new set of indicators corresponds to a particular functional characteristic (col. 4 lines

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51- col. 5 line 9); and perform network management functions based on the database including the new set of indicators (col. 29 lines 6-9).

Referring to claim 16, Littlewood et al. discloses the network management processor of claim 15, wherein each set of indicators include indicators in a predetermined arrangement, wherein position in the predetermined arrangement corresponds to representation of a functional characteristic (col. 4 lines 2-34).

Referring to claim 17, Littlewood et al. discloses the network management processor of claim 16, wherein each set of indicators further comprises a bit mapped value, wherein each bit location in the bit mapped value corresponds to representation of a functional characteristic (Table 1 & Table 3).

Referring to claim 18, Littlewood et al. discloses the network management processor of claim 15, wherein each set of indicators includes indicators indicating functional support at multiple hierarchical levels within a node to which the set of indicators corresponds (Table 1 & Table 3).

Referring to claim 19, Littlewood et al. discloses the network management processor of claim 15, wherein performing network management functions further comprises determining routing paths in the network (col. 3 lines 30-53).

Referring to claim 20, Littlewood et al. discloses the network management processor for performing network management functions in a communication network that includes a plurality of nodes (Fig. 1), comprising: a processing module (Fig. 1, reference sign 7); and memory (Fig. 9) operably coupled to the processing module (Fig. 1, reference sign 7), wherein the memory includes operating instructions that cause the

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processing module to: determine functionality of at least a portion of the plurality of nodes and component entities of the at least a portion of the plurality of nodes based on a database of bit mapped indicator sets (Table 1 and Table 3), wherein the at least a portion of the nodes in the communications network are represented by corresponding bit mapped indicator sets (Table 1 and Table 3), wherein each bit mapped indicator set indicates functional characteristics for a corresponding node (Table 1 and Table 3); when functionality of the plurality of nodes is not fully characterized by the database (col. 22 lines 62-66), determine functionality of a remainder portion of the plurality of nodes based on node types corresponding to nodes included in the remainder portion of the plurality of nodes (col. 4 lines 51- col. 5 line 9); and perform network management functions based on functionality of the plurality of nodes as determined (col. 29 lines 6-9).

Referring to claim 21, Littlewood et al. discloses the network management processor of claim 20, wherein performing network management functions further comprises determining routing paths in the communications network (col. 3 lines 30-53).

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***Conclusion***

**6. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 305-3988, (for formal communications intended for entry)

**Or:**

(703) 305-3988 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington, VA. 22202, Sixth Floor (Receptionist).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (703) 305-5741. The examiner can normally be reached on Monday-Friday 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (703) 305-4366. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

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J.A.F.

Jamal A. Fox



KWANG SIN YAO  
PRIMARY EXAMINER